

Assembly Joint Resolution

No. 18

Introduced by Assembly Member Skinner

April 16, 2013

Assembly Joint Resolution No. 18—Relative to equal rights.

LEGISLATIVE COUNSEL’S DIGEST

AJR 18, as introduced, Skinner. Equality of rights for men and women.

This measure would urge the Congress of the United States to pass Senate Joint Resolution No. 10, an amendment to the Constitution of the United States that is subject to ratification by the legislatures of $\frac{3}{4}$ of the states, to ensure that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Fiscal committee: no.

- 1 WHEREAS, The traditional Equal Rights Amendment (ERA)
2 ratification bill has been introduced as Senate Joint Resolution No.
3 10 in the 113th Congress of the United States with 10 cosponsors
4 from the United States Senate on March 5, 2013; and
5 WHEREAS, The ERA was first written by Alice Paul, the head
6 of the National Woman’s Party, and has been introduced in every
7 Congress of the United States since 1923 in order to guarantee that
8 the rights affirmed by the United States Constitution are held
9 equally by all citizens without regard to sex; and
10 WHEREAS, The ERA would provide a fundamental legal
11 remedy against sex discrimination for both women and men; and

1 WHEREAS, The ERA would clarify the legal status of sex
2 discrimination for the courts, where decisions still deal
3 inconsistently with such claims; and

4 WHEREAS, The ERA would make “sex” a suspect
5 classification, as race currently is, so that governmental actions
6 that treat males and females differently as a class would have to
7 bear a necessary relation to a compelling state interest in order to
8 be upheld as constitutional; and

9 WHEREAS, The ERA was first passed by Congress in 1972
10 and was sent to the states for ratification, but was three votes shy
11 of the 38-state requirement for ratification by the June 30, 1982,
12 deadline; and

13 WHEREAS, The ERA has been reintroduced in Congress each
14 year since 1982 and has seen legislative activity in 8 of the 15
15 unratified states; and

16 WHEREAS, The first, and still the only, right that the United
17 States Constitution specifically affirms to be equal for women and
18 men is the right to vote under the 19th Amendment, and it was
19 ratified by the states in 1920; and

20 WHEREAS, The 14th Amendment’s equal protection clause
21 has never been interpreted to protect against sex discrimination in
22 the same way that the ERA would; and

23 WHEREAS, In September 2010, Supreme Court Justice Antonin
24 Scalia said he does not believe that the United States Constitution,
25 specifically the 14th Amendment, protects against sex
26 discrimination; and

27 WHEREAS, In the cases of *Craig v. Boren* (1976) and *United*
28 *States v. Virginia* (1996), the United States Supreme Court declined
29 to elevate sex discrimination claims to the strict scrutiny standard
30 of review that the 14th Amendment requires for certain suspect
31 classifications such as race, religion, and national origin; and

32 WHEREAS, The ERA has not been ratified in 15 states
33 including Alabama, Arizona, Arkansas, Florida, Georgia, Illinois,
34 Louisiana, Mississippi, Missouri, Nevada, North Carolina,
35 Oklahoma, South Carolina, Utah, and Virginia; and

36 WHEREAS, The state constitutions of Alaska, California,
37 Colorado, Connecticut, Florida, Hawaii, Illinois, Iowa, Louisiana,
38 Maryland, Massachusetts, Montana, New Hampshire, New Jersey,
39 New Mexico, Pennsylvania, Rhode Island, Texas, Utah, Virginia,

1 Washington, and Wyoming all provide guarantees of equal rights
2 on the basis of sex; and

3 WHEREAS, Without the addition of the ERA to the United
4 States Constitution, legislation and case law that has resulted in
5 extraordinary progress for women has the potential to be ignored,
6 weakened, or reversed. By a simple majority in the Congress of
7 the United States, legislation can be amended or repealed, the
8 presidential administration can weakly enforce these laws, and the
9 United States Supreme Court can continue to use intermediate
10 scrutiny when reviewing cases concerning gender; and

11 WHEREAS, It is vital that we have a declaration of gender
12 equality outlined in the United States Constitution; now, therefore,
13 be it

14 *Resolved by the Assembly and the Senate of the State of*
15 *California, jointly*, That the Legislature requests the Congress of
16 the United States to pass Senate Joint Resolution No. 10, an
17 amendment to the Constitution of the United States that is subject
18 to ratification by the legislatures of three-fourths of the states, to
19 ensure that equality of rights under the law shall not be denied or
20 abridged by the United States or by any state on account of sex;
21 and be it further

22 *Resolved*, That the Chief Clerk of the Assembly transmit copies
23 of this resolution to the President and Vice President of the United
24 States, and to the Members of the United States Congress.